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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 LANTZ E. ARNELL,

12 Plaintiff,

13 vs.

14 JUDGE W. McADAM, Department 8
15 Superior Court of California, County of
16 San Diego, South County Judicial
17 District,

18 Defendants.

CASE NO. 07cv0743-LAB (RBB)

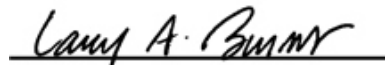
**ORDER DENYING AS MOOT
MOTION TO DISMISS**

19 On April 24, 2007, Plaintiff filed his complaint. On June 12, Defendant moved to
20 dismiss. Defendant filed no answer and no motion for summary judgment. After further
21 proceedings, Plaintiff on August 9 filed a notice of dismissal pursuant to Fed. R. Civ. P.
22 41(a)(1)(i). Because Defendant had not filed an answer or motion for summary judgment,
23 Rule 41(a)(1)(i) permits him to withdraw his complaint unilaterally by filing a notice of
dismissal, as he did.

24 Defendant's pending motion to dismiss is therefore **DENIED AS MOOT.**

25 **IT IS SO ORDERED.**

26 DATED: August 13, 2007

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28 **HONORABLE LARRY ALAN BURNS**
United States District Judge